

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

With the Office Action, Claims 19-33 are pending. Claims 19, 21, 22, 24, 25, 27, and 29-32 are amended presently. Claims 20, 26, 28 and 33 are canceled without prejudice whereas claims 34 to 36 are newly added.

With the foregoing amendments, Claims 19, 21-25, 27, 29-32 and 34-36 are currently pending in this application.

**Rejections under 35 USC § 112**

Claims 19-33 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 19 and 26, line 1 of each, “such as bottles” is regarded unclear. In view of this rejection, the phrase “such as bottles” has been removed from claim 19 while claim 26 has been canceled.

In claim 19, lines 5 and 8, “articles” and “a side wall panel” are each regarded as a double inclusion of an element. In view of this rejection, claim 19 has been amended such that claim 19 contains no more double inclusions.

In claim 21, “the weakened line of severance” is considered to be unclear. In view of this rejection, the subject term has been replaced by “the second segment”.

In claim 22, “dispensing feature” is considered to lack antecedent basis. In view of this rejection, an antecedent basis has been provided in claim 19 from which claim 22 depends.

In claim 25, “weakened lines of severance” is considered to be a double inclusion. In response to this rejection, the term has been changed to “third segments”.

Claims 26-28 and 33 are rejected. The Examiner states that the preamble indicates that a blank is claimed but the limitations within the body of the claims relate to the carton. In view of this rejection, claims 26, 28 and 33 have been canceled while claim 27 now depends from new claim 34.

In claim 26, lines 5, 7 and 8, “carton walls” and “carton wall” are considered to lack antecedent basis; line 8, “where a set up carton the access means provides” is considered unclear; and line 8, “a...carton” is regarded as a double inclusion. These rejections are moot since claim 26 has been canceled.

In claim 27, “at least two adjacent panels” and “transverse lines of weakness” are each considered to be a double inclusion of elements”. In view of this rejection, the passages of question have been removed from claim 27 and replaced by clear and definite passages.

In claim 27, the panels being referred to are considered to be unclear within the context of the claim. In view of this rejection the passage including the “panels” has been removed from claim 27.

In claim 28, “the transverse line of weakness” is considered to be unclear while “the dispensing feature” is considered to lack antecedent basis. These rejections are moot since claim 28 has been canceled.

In claim 29, “said end closure walls” is considered to lack antecedent basis. In response to this rejection, the term in question has been removed from claim 29.

Also in claim 29, line 2 and 3, “the weakened line of severance” and “said weakened line” are each considered to be unclear. In view of this rejection, the terms in question have been removed from claim 29.

In claim 33, “said transverse line of weakness” and “the dispensing feature” are each considered to lack antecedent basis. This rejection is moot because claim 33 has been canceled.

In view of the above-discussed amendments to the rejected claims, withdrawal of the rejections under 35 USC 112 is respectfully requested.

#### **Rejections under 35 USC § 102**

Claims 19-22, 24-28 and 33 are rejected under 35 USC §102(b) as being anticipated by Lankhuijzen (US 5,582,345). In view of this rejection, claim 19 has been amended.

Claim 19, as amended, recites in part:

“A carton comprising a plurality of similar, substantially cylindrical articles ... wherein the articles are arranged such that the articles sit on the bottom panel and such that an axis of each of the articles is disposed substantially perpendicular to the bottom panel.”

Lankhuijzen fails to disclose substantially cylindrical articles and also fails to disclose the specific orientation of such cylindrical articles. For at least those reasons, Claim 19 is allowable.

Claims 21, 22, 24 and 25 are allowable because they depend from allowable claim 19. .

### **Rejections under 35 USC § 103**

Claim 23 is rejected under 35 USC §103(a) as being unpatentable over Lankhuijzen. The Examiner states that it would have been obvious to make the bottom panel 10a, 10b larger than the top panel 6 as a mere change in the size and shape of the container as a mere change in size. This rejection is moot because claim 23 depends from allowable claim 19.

Claims 29 and 30 are rejected under 35 USC §103(a) as being unpatentable over Lankhuijzen in view of Spivey (US 6,578,736). The Examiner states that it would have been obvious to make the tear out section in Lankhuijzen using a line of tear and using an endless line linked through the end flaps as taught by Speivey to eliminate waste material and that both tear strips and tear lines are well known in the art. This rejection is also moot since claims 29 and 30 depend from allowable claim 19.

### **Allowable Subject Matter**

The Examiner states that claims 31 and 32, as best understood, would be allowable if rewritten to overcome the rejections under 35 USC 112, 2<sup>nd</sup> paragraph, and to include all of the limitations of the base claim and any intervening claims. Taking this suggestion, Applicant has rewritten each of claims 31 and 32 into independent form including all of the limitations of original claims 19, 29 and 30. All the terms and passages rejected under USC 112, 2<sup>nd</sup> paragraph, have been either removed or replaced by clear and definite terms and/or passages. As such, claims 31 and 32 are believed to be allowable.

### **New Claims**

Claim 27 and new claims 34-36 are allowable for the following reasons:

Claim 34 recites in part:

“... a pair of intermediate portions extending across the lower end flaps respectively, the intermediate portions are positioned and configured such that

each of the intermediate portions interconnects a respective one of the upper portions and a respective one of the lower portions when the blank is erected into a carton.”

Lankhuijzen discloses a portion of each third segment extending across the lower end flaps 16a, 16b. However, that portion of each segment in Lankhuijzen does not interconnect the respective portions of the first and second segments. Spivey does not at all disclose a lower end flap in which a tear line segment is provided. For at least that reason, claim 34 is allowable over either Lankhuijzen and/or Spivey.

Claims 27, 35 and 36 are allowable since they depend from allowable Claim 34.

#### **Conclusion**

Applicant believes that the present application is in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

If any additional fees are due in connection with the filing of this response, including any excess claim fees, such additional fees may be charged to Deposit Account No. 132500. If a fee is required for an extension of time under CFR § 1.136 that is not accounted for above, such an extension is hereby requested and the fee may also be charged to the above deposit account.

Respectfully submitted,

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